

April 16, 2018

**SUBMITTED ELECTRONICALLY**

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460  
(202) 566-1667

**Re: Freedom of Information Act Request for Records Related to the EPA's Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light Duty Vehicles**

Dear National Freedom of Information Officer:

Environmental Defense Fund ("EDF") respectfully requests a copy of all records of the U.S. Environmental Protection Agency ("EPA" or the "Agency") related to the Mid-Term Evaluation (MTE) of the Model Year ("MY") 2022-2025 Light-Duty Vehicle Greenhouse Gas Emissions Standards, including but not limited to all records related to the development or release of the Agency's Notice of Intention to Reconsider the Final Determination ("NOI"), 82 Fed. Reg. 14,671 (Mar. 22, 2017); and the development and release of the Agency's second Final Determination, 83 Fed. Reg. 16,077 (Apr. 13, 2018).<sup>1</sup> EDF respectfully requests all records sent or received since April 21, 2017 that exist as of the date that EPA begins searching for records responsive to this request. For the purposes of this request, EDF respectfully seeks records related to EPA's contact with external parties including businesses, trade groups and associations, state governments, and other federal agencies such as the U.S. Department of Transportation's ("DOT") National Highway Traffic Safety Administration ("NHTSA").

On April 21, 2017, EDF submitted a separate FOIA request seeking correspondence relating to the MTE process.<sup>2</sup> This earlier request, which EPA docketed as number EPA-HQ-2017-006421, covered records produced, modified or transmitted from January 20, 2017 through April 21, 2017.

This new request covers records produced, modified, or transmitted from April 21, 2017, through the date upon which EPA begins searching for records responsive to this request, excluding any records already covered by the April 2017 request (EPA-HQ-2017-006421). If any record covered by the April 2017 request was subsequently modified or transmitted, such modification or transmission qualifies as a separate record for the purposes of this request, and should

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<sup>1</sup> EPA, Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light-Duty Vehicles, 83 Fed. Reg. 16,077 (Apr. 13, 2018). Administrator Scott Pruitt signed this second Final Determination on April 2, 2018.

<sup>2</sup> See Letter from Peter Zalzal, EDF, to National Freedom of Information Officer, *Re: Freedom of Information Act Request for Records Related to the EPA's Notice of Intention to Reconsider the Final Determination of the Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light Duty Vehicles* (Apr. 21, 2017).

therefore be included among the responsive records. This request does not modify—and should not affect the processing of—the April 2017 request.

EDF requests all records as that term is defined at 5 U.S.C. § 552(f)(2), under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552—including but not limited to electronic and written communications, text messages, background materials, meeting invitations, and written notes. If any of the information sought in this request is deemed by EPA to be properly withheld under a FOIA exemption, 5 U.S.C. § 552(b), please provide EDF with an explanation, for each such record or portion thereof, sufficient to identify the record and the particular exemption(s) claimed.

### *Request for Expedited Processing*

EDF respectfully seeks expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 40 C.F.R. § 2.104(e)(1)(ii), which applies when there is “[a]n urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public.” With respect to five other FOIA requests, EPA recently recognized EDF’s eligibility for expedited processing on this basis.<sup>3</sup> In support of this request for expedited processing, I certify that the following information is true and correct to the best of my knowledge and belief:

- (1) EDF engages in extensive, daily efforts to inform the public about matters involving environmental and public health policy. For example, EDF has multiple channels for distributing information to the public, including through direct communication with its more than two million members, press releases, blog posts, active engagement on social media, and frequent appearances by staff in major media outlets.<sup>4</sup>
- (2) On April 2, 2018, Administrator Scott Pruitt signed a Final Determination, concluding that the existing Clean Cars Standards for MY 2022-2025 are “not appropriate” because they are too protective.<sup>5</sup> Agency regulations require that “[t]he Administrator will set forth in detail the bases for the determination,” but Administrator Pruitt failed to provide

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<sup>3</sup> See Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPAHQ2017-003545 (Feb. 23, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-005587 (Apr. 12, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-008622 (July 7, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009283 (July 13, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009579 (July 26, 2017).

<sup>4</sup> See, e.g., Alice Henderson, *EPA Administrator Scott Pruitt’s Dirty Cars Action – By the Numbers*, EDF Climate 411 Blog (Apr. 3, 2018), <http://blogs.edf.org/climate411/2018/04/03/epa-administrator-scott-pruitts-dirty-cars-action-by-the-numbers/>; Martha Roberts, *Are there roadblocks ahead for America’s clean cars standards? Here are five things you need to know*, EDF Climate 411 Blog (Mar. 29, 2018), <http://blogs.edf.org/climate411/2018/03/29/are-there-roadblocks-ahead-for-americas-clean-cars-standards-here-are-five-things-you-need-to-know/>; EDF Associate Vice President Jeremy Symons, *Did Trump’s EPA Chief Just Rewrite the EPA’s Mission?*, Huffington Post (Apr. 20, 2017), <http://www.huffingtonpost.com/entry/58efe8b7e4b0156697224dab>.

<sup>5</sup> 83 Fed. Reg. 16,077 (Apr. 13, 2018). Administrator Pruitt signed this Final Determination on April 2, 2018.

a detailed explanation in support of his decision or any response to comments.<sup>6</sup> Furthermore, the Final Determination triggers a requirement that EPA engage in a rulemaking to revise the greenhouse gas emission standards for MY 2022-2025 vehicles.

- (3) It is urgent that the public understand the information that EPA considered as part of the reconsideration of the MTE, as well as which individuals and entities informed the agency's decision-making, before the Agency takes further action to weaken critical public health and climate change protections.

*Request for Fee Waiver*

As a non-partisan, non-profit organization that provides information that is in the public interest, EDF respectfully requests a waiver of fees associated with this request. We are not seeking information for any commercial purpose and the records received will contribute to greater public understanding of the factors leading to EPA's decision to reconsider standards that substantially reduce pollution and save Americans money—an issue of considerable public interest. 5 U.S.C. § 552(a)(4)(A)(iii). EDF is well positioned to disseminate the records to the public, as we routinely issue press releases, action alerts, reports, analyses, and other public outreach materials. We fully intend to disseminate pertinent information received in response to this request. Accordingly, we respectfully request that EPA furnish the records without charge. *Id.*

For ease of administration and to conserve resources, we will accept documents produced in a readily accessible electronic format. In the event EDF's request for a fee waiver is denied or if you have any questions about this request, please contact me immediately by telephone at (202) 572-3525 or by email at [emurphy@edf.org](mailto:emurphy@edf.org).

Respectfully submitted,

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<sup>6</sup> 40 C.F.R. § 86.1818-12(h)(4).